

IN THE SUPREME COURT  
OF THE STATE OF MONTANA

-----  
IN RE THE MATTER OF THE ACTIVITIES     )  
OF THE DEPARTMENT OF NATURAL         )  
RESOURCES AND CONSERVATION         )  
-----

**MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS'  
RESPONSE TO THE WATER COURT'S UNAUTHORIZED PRACTICE  
OF LAW COMMENTS**

-----  
G. STEVEN BROWN  
Retained Counsel  
1313 Eleventh Avenue  
Helena, MT 59601

ROBERT N. LANE  
Chief Legal Counsel  
Department of Fish, Wildlife  
and Parks  
P.O. Box 200701  
Helena, MT 59620-0701

ATTORNEYS FOR MONTANA DEPARTMENT  
OF FISH, WILDLIFE AND PARKS

TIM D. HALL  
Chief Legal Counsel  
Dept. of Natural Resources & Conservation  
1424 9th Avenue  
Helena, MT 59620-1601

C. BRUCE LOBLE  
Chief Water Judge  
Montana Water Court  
P.O. Box 1389  
Bozeman, MT 59771-1389

ATTORNEY FOR THE MONTANA  
DEPARTMENT OF NATURAL  
RESOURCES AND CONSERVATION

PETITIONER

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**MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS'  
RESPONSE TO THE WATER COURT'S UNAUTHORIZED PRACTICE  
OF LAW COMMENTS**

The Montana Department of Fish Wildlife and Parks ("DFWP") files the following response to Chief Water Judge C. Bruce Loble's June 21, 2006 Comments on the unauthorized practice of law issue (Section III of DFWP's June 12, 2006 Comments and Objections to the Water Court's Final Proposed Water Rights Adjudication Rules):

Judge Loble provided new information not previously disclosed to DFWP or, apparently, the public regarding the unauthorized practice issue in the Water Court's June 21, 2006 Comments. DFWP respectfully requests that this Court accept these additional comments and suggested resolution of the unauthorized practice issue in the interests of full public disclosure and public resolution of this important matter.

After the Water Court's June 21, 2006 filing, DFWP requested and received copies of all the 1992-93 correspondence between Judge Loble and former Chief Justice Jean Turnage regarding the historic unauthorized practice of law in Water Court proceedings. Tab 1 to this pleading contains copies of the documents received from Judge Loble that were apparently the basis for Chief Justice Turnage's November 2, 1993 letter (*see* Exhibit A to Judge Loble's June 21, 2006 Comments). The Tab 1 documents, including Chief Justice Turnage's letter

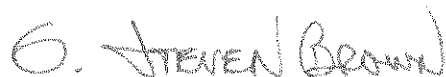
authorizing "lay representation" in Water Court proceedings, were not previously disclosed to DFWP or, apparently the public before June 21, 2006. Even more disturbing is the fact that the Water Court did not disclose or even mention the 1992-93 correspondence during DFWP's discussion of the unauthorized practice issue during the past five years. It is clear that the pervasive unauthorized practice of law documented in DFWP's June 12, 2006 Comments was occurring at the urging and request of Judge Loble.

DFWP offers the following solution to the unauthorized practice conundrum for this Court's consideration:

DFWP submits that only a prospective resolution of the unauthorized practice issue is feasible because of the Water Court's blessing and encouragement of such unauthorized practice over the past 23 years. DFWP has never sought the retroactive application of an unauthorized practice rule or policy that would invalidate pleadings already filed by non-lawyers on behalf of others. Too many pleadings have been filed by non-lawyers on behalf of others and the adjudication is too far along to focus on past transgressions. A prospective unauthorized practice rule or policy will ensure that the rights of Montana's water users can still be protected and not left to non-lawyers who represent others without regulation or compliance with controlling practice of law precedent and rules. DFWP also

respectfully requests that any such unauthorized practice rule or policy be adopted after public notice and the opportunity for public comment.

Respectfully submitted this 11<sup>th</sup> day of July, 2006.



G. Steven Brown  
Retained Counsel  
1313 Eleventh Avenue  
Helena, MT 59601



Robert N. Lane  
Chief Legal Counsel  
Department of Fish, Wildlife,  
and Parks  
P.O. Box 200701  
Helena, MT 59620-0701

ATTORNEYS FOR MONTANA DEPARTMENT  
OF FISH, WILDLIFE AND PARKS

**CERTIFICATE OF COMPLIANCE**

I certify that the *Montana Department of Fish, Wildlife and Parks' Response to the Water Court's Unauthorized Practice of Law Comments* is in compliance with Rule 27 of the Montana Rules of Appellate Procedure as follows:

1. The comments and objections are double spaced and are printed with a proportionately spaced font of 14 point typeface; and
2. The comments and objections contain 496 words, excluding certificate of service, certificate of compliance, tables, and appendices.

Dated this 11<sup>th</sup> day of July, 2006.



G. Steven Brown

## CERTIFICATE OF SERVICE

I, G. Steven Brown, one of the attorneys for the Montana Department of Fish, Wildlife and Parks, certify that I did on the 11<sup>th</sup> day of July, 2006, serve a copy of the *Montana Department of Fish, Wildlife and Parks' Response to the Water Court's Unauthorized Practice of Law Comments*, by mail, postage prepaid, upon the following:

TIM D. HALL  
Chief Legal Counsel  
Department of Natural Resources  
and Conservation  
1424 9th Avenue  
Helena, MT 59620-1601

C. BRUCE LOBLE  
Chief Water Judge  
Montana Water Court  
P.O. Box 1389  
Bozeman, MT 59771-1389

ATTORNEY FOR THE MONTANA  
DEPARTMENT OF NATURAL  
RESOURCES AND CONSERVATION

PETITIONER



---

G. Steven Brown

# **TAB 1**

Subj: **Water Court and Lay Representation**  
Date: 6/23/2006 2:13:16 PM Mountain Standard Time  
From: bloble@mt.gov  
To: jeb@doneylaw.com, sbradshaw@tu.org, stevebrown1313@aol.com, morlaw@qwest.net, james.dubois@usdoj.gov, kevans@mt.gov, hollyjo@franzdriscoll.com, jgilman@mt.gov, goffenaar@midrivers.com, thall@mt.gov, bhedrich@ttc-cmc.net, mark@bigtimberlaw.com, blane@mt.gov, bloble@mt.gov, jmmiller01@fs.fed.us, gmueller@montana.com, fjbc@blackfoot.net, rbstrong@painehamblen.com, cwest@mt.gov, lziemer@tu.org

In his June 22 e-mail, Steve Brown requested copies of the Lay Representation information mentioned in the Water Court's recent filing with the Supreme Court. As Mr. Brown is interested, I thought some of the rest of you might also be interested. Rather than having to respond to multiple requests from a variety of parties and making multiple copies, I scanned the documents and they are attached. To make it easier to scan, I removed the staples from the information and ran all of them through the scanner. They will appear as one document in the attachment. However, I think you will be able discern the natural document breaks.

Steve Brown asks for correspondence from Judge Lessley. I would have to review boxes of old correspondence and I don't have time for that. I was practicing law when the adjudication began in 1979 and my recollection is that the DNRC, Judge Lessley, the water judges, and the Supreme Court spent a lot of time trying to figure out the early procedures. Whether all that early communication is documented somewhere, I don't know. My recollection, however, is that a lot of water users referred to SB 76 as a "Lawyers' Relief Act." It is my belief that the legislature, Judge Lessley, the water judges, and members of the Supreme Court wanted this process to work for water users without the need for a lot of legal assistance.

Bruce Loble  
Montana Water Court

<<Water Court Lay Representation Info 1992-1993.pdf>>

**From:** Stevebrown1313@aol.com [mailto:Stevebrown1313@aol.com]

**Sent:** Thursday, June 22, 2006 8:55 AM

**To:** Loble, Bruce; jeb@doneylaw.com; sbradshaw@tu.org; morlaw@qwest.net; james.dubois@usdoj.gov; Evans, Krista Lee; hollyjo@franzdriscoll.com; Gilman, Jim; goffenaar@midrivers.com; Hall, Tim; bhedrich@ttc-cmc.net; mark@bigtimberlaw.com; Lane, Bob; jmmiller01@fs.fed.us; gmueller@montana.com; fjbc@blackfoot.net; rbstrong@painehamblen.com; West, Candace; lziemer@tu.org

**Subject:** Re: Water Court Comments to DFWP's Practice of Law Issue

Dear Judge Loble:

Thank you for sending me a copy of your comments on the unauthorized practice issue and the November 2, 1993 letter from then Chief Justice Turnage (Attachment A). Chief Justice Turnage's letter references a letter you sent to the Supreme Court on March 8, 1993. Your comments also indicate that the Water Court raised the unauthorized practice issue with the Supreme Court in 1992 and sought the Supreme Court's guidance on the "lay representation" issue. Please send me a copy of your March 8, 1993 letter and copies of any other correspondence, orders, or documents submitted to or received from the Supreme Court regarding "lay representation" in Water Court proceedings, including any correspondence sent or received by your predecessor, Chief Water Judge W. W. Lessley.

Thank you.  
Steve Brown

Monday, June 26, 2006 America Online: Stevebrown1313

Tab 1  
(p. 1 of 34)





## MONTANA WATER COURT

### STATE OF MONTANA

(406) 586-4364  
1-800-624-3270 (In-State only)

P.O. Box 879  
Bozeman, MT 59771-0879

June 10, 1992

Honorable J. A. Turnage  
Chief Justice  
Montana Supreme Court  
Justice Building  
215 N. Sanders  
Helena, MT 59620

**COPY**

Re: Lay Representation Before the Water Court

Dear Chief Justice Turnage:

The Supreme Court's decision in Continental Realty, Inc. vs. Gerry, 48 State Reporter 1134 (December 19, 1991) 822 P.2d 1083 and the earlier decision relied upon in the Continental Realty case i.e. Weaver vs. Law Firm of Graybill, et al (1990), 246 Mont. 175, 803 P.2d 1089 regarding non-lawyers representing corporations, families and others have caused significant concern to the Water Court. In the Continental Realty case, the Court did not consider the brief of the respondent corporation because it had been presented by the non-lawyer corporation president rather than by a lawyer.

Since the Water Court first began operation, non-lawyers, usually family members, corporate officers, or partners, but others as well, have "represented" family, closely held corporations, partnerships or associations during the adjudication process. From the beginning, the Water Court has encouraged and assisted farmers and ranchers and other water users in representing themselves. See Attachment 1. Simple "check off" forms were developed and provided by the Court to the public. See Attachment 2.

The procedures established by Judge Lessley were informal and "user friendly" in order to encourage public participation in the process. Without significant public intervention in the form of objections to water right claims, the adjudication might have claims that do not accurately reflect the historical use of water.

Typically we see non-lawyers engaged in the following activities:

"... to expedite and facilitate the adjudication of existing water rights."  
CH. 697 L. 1979

"AN EQUAL OPPORTUNITY EMPLOYER"

Tab 1  
(p. 2 of 34)

1. Many statements of claim filed on behalf of corporations, partnerships and associations were signed by non-lawyers and filed in 1982 with the Department of Natural Resources and Conservation. In a very broad sense these statements of claim could be considered as initial pleadings.
2. Objections to the Temporary Preliminary or Preliminary Decrees issued by the Water Court and Notices of Intent to Appear (basically Rule 24(a) Motions to Intervene), are signed by corporate officers, agents or employees; and by adult children, grandchildren, or other family members on behalf of parents, aged grandparents or other family members. Occasionally, hydrologists, land men, and agricultural engineers have acted as agents or with powers of attorney. See Attachment 2 and 3(b).
3. Non-lawyers are involved in our informal telephone status or pretrial conferences calls and in our multiparty personal conferences.
4. Affidavits from witnesses and stipulations between parties are often submitted by non-lawyers and are relied upon by the Water Court in resolving objections. A typical affidavit and stipulation is attached as Attachment 3.
5. The Department of State Lands (DSL) periodically uses a non-lawyer (a former DNRC adjudication specialist) to follow up on DSL's water right claims. The DSL non-lawyer often signs affidavits which he then transmits to the Water Court to resolve issues.
6. Although most large corporations, insurance companies or financial institutions use Montana lawyers, occasionally, a division manager, agricultural loan officer or out-of-state in house counsel will sign a stipulation, affidavit or withdrawal of claim "representing" the corporation in resolving an objection to a water right claim. See Attachment 4.
7. Corporate officers and family members have even occasionally represented closely held corporations, spouses or other family members during hearings on the merits. This situation is probably fairly rare since close to 80% or 90% of all water right objections are resolved without resort to evidentiary hearings.

Please note that we do have many claimants and objectors who appear pro se at our conferences and even some who appear pro se at the evidentiary hearing stage. This letter concerns only

non-lawyer representation of others, not pro se representation.

Since lay representation has been permitted in the Water Court since the beginning, there must be hundreds and possibly thousands of water right disputes that were resolved without lawyers being involved. If a successful challenge were made to one claim based upon Continental Realty, supra, or Weaver, supra, and the Water Court was required to disregard the documents filed by non-lawyers, the progress of the adjudication would likely come to a halt. All of the old cases would have to be reopened and parties required to obtain lawyers. Since many witnesses and a lot of water right claimants are elderly, I suspect that we would find many people to have died in the interim.

There probably aren't enough knowledgeable water lawyers to represent all water users. Additionally, since all water users are theoretically adverse to each other, the potential for conflicts of interest would be high.

203,000 statements of claims were filed before April 30, 1982. For the most part, the vast majority of people have not had to think about the adjudication process for years. When the Water Court issues a decree and begins the active process of adjudicating claims within a basin, hundreds of claims and objections are settled by the filing of affidavits or stipulations regarding the historical use of the water.

Many adjustments to these claims are simply agreed upon refinements to the statements of claim originally filed in 1982. For example, the number of acres irrigated, the legal descriptions of the place of use or points of diversion often receive objections and are then resolved by the parties after they examine aerial photos at DNRC or SCS offices. Once a claimant and objector agree, a simple affidavit is usually filed by the claimant or a stipulation among all of the parties is signed to resolve the dispute.

Before getting to that settlement point, however, the claimants and objectors must be brought together and started down the settlement road. We do that through informal status conferences between claimants and objectors. In those status conferences a water master explains the procedures that will be followed in the Water Court and the objector is required to explain his or her objection to the water right claim. The parties are encouraged to meet among themselves within the next thirty or sixty days to resolve their differences. It takes some people longer to resolve their problems and multiple status conferences are held to prod them along.

Occasionally, a non-lawyer will make a Motion for Default if a claimant or objector fails to appear at a status conference. It

is very rare for non-lawyers to file any other motion. In most cases, settlements are eventually reached. The participation of attorneys during this period of time is relatively limited. This is particularly true if the water right claims are small. With a few exceptions, once it appears that an evidentiary hearing is to take place, most water users hire lawyers.

Article VII, Section (2) of the 1972 Montana Constitution clearly gives the Court authority to supervise the Water Court and to establish the parameters of lay representation during the adjudication process. See also Sparks v. Johnson, 49 St. Reporter 124, (Feb. 6, 1992). Additionally, §3-7-103 MCA specifically contemplates the Supreme Court promulgating special rules of practice and procedure for the Water Court.

Because of the Legislature's command to "expedite and facilitate" the adjudication of Montana's water rights, the limited numbers of lawyers knowledgeable about water rights, the Water Court's past practice and the limited number of water right objections that must be resolved by evidentiary hearings, limited lay representation should be permitted in the Water Court. Lay representation could cease once the Water Court reaches the point of entering a pretrial order pursuant to Rule 5 of the Uniform District Court Rules or at any hearing on the merits.

I respectfully suggest that the Court issue an Order or establish a Water Court rule that, at a minimum, allows lay representation by corporate officers of closely held or family ranching corporations, by partners in partnerships, by association officers in associations, and by the family for other family members. However, I would further suggest that lay representation not be limited at all during our conferences. This would permit corporate officers, agents and employees to represent all corporations and allow hydrologists, land men and agricultural engineers to represent and assist all water users at status or pre-trial conferences, to assist in the preparation of documents, stipulations and affidavits and to submit them to the Water Court to resolve objections.

Lay representation could be restricted at hearings on the merits, although there are instances in which a corporation president or family member might do as good a job at an evidentiary hearing as some lawyers might do. I suggest that the Water Court be granted the necessary discretion to authorize lay representation even in evidentiary hearings.

This is a sensitive issue for the Court, the bar and the public and this letter represents an unusual request. The parameters of lay representation should be addressed by order or rule. Past lay representation (including lay representation at evidentiary hearings) should be addressed and retroactively

authorized even if the Court believes that future lay representation before the Water Court should be limited in a specific fashion.

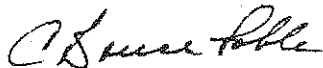
If you would like me to show you some specific examples of lay representation or to discuss this matter in greater detail, please give me a call. If the Court agrees that an order or rule would be appropriate under the circumstances outlined in this letter, I would like to propose some specific language for the Court to consider in developing the parameters of lay representation before the Water Court.

I have discussed most of this letter with Water Judges Thomas, Mizner and Rodeghiero and they agree that continued lay representation should be permitted before the Water Court. I am not certain if they agree with me that lay representation should be allowed at evidentiary hearings. I did not take that position when I sent a draft of this letter to them. I have since changed my mind on lay representation at evidentiary hearings and believe that it should be allowed at the discretion of the Water Court.

Judge Mizner suggested that corporate resolutions be required to be filed to authorize lay representation of corporations. Judge Mizner thought that such resolutions would avoid later assertions of ineffective counsel. It is not a bad idea. Following Judge Mizner's thought further leads one to consider whether the Water Court might require the filing of similar "informed consents" or "Miranda" type warnings in all lay representation situations.

In any event, the Water Court needs direction from the Supreme Court on this issue of lay representation. Thank you for your consideration.

Sincerely,



C. Bruce Loble  
Chief Water Judge

CBL:lmb

cc: Honorable Ted Mizner  
Honorable Roy C. Rodeghiero  
Honorable B. W. Thomas

Tab 1  
(p. 6 of 34)

1                   IN THE WATER COURTS OF THE STATE OF MONTANA  
2                   UPPER MISSOURI DIVISION - MADISON RIVER BASIN  
3                   \* \* \* \* \*  
4           IN THE MATTER OF THE ADJUDICATION           )  
5           OF THE EXISTING RIGHTS TO THE USE           )       Case No. 41F-41  
6           OF ALL THE WATER, BOTH SURFACE AND       )  
7           UNDERGROUND, WITHIN THE MADISON           )  
8           RIVER DRAINAGE AREA, INCLUDING ALL       )  
          TRIBUTARIES OF THE MADISON RIVER           )  
          IN BEAVERHEAD, GALLATIN AND MADISON       )  
          COUNTIES, MONTANA.                        )  
          \_\_\_\_\_

9  
10                   PREHEARING IN RE. CASE NO. 41F-41  
11                   OBJECTIONS TO THE MADISON RIVER BASIN TEMPORARY  
12                   DECREE BY THE DEPARTMENT OF FISH, WILDLIFE AND PARKS

13                               Through the  
14                               Montana State Water Courts Office  
15                               Bozeman, Montana  
16                               June 25, 1985  
17  
18                   KATHRYN L.W. LAMBERT, WATER MASTER, PRESIDING  
19

20                   \* \* \* \* \*

21  
22                               Janet Lackey  
23                               Water Courts Clerk  
24                               P.O. Box 879  
25                               Bozeman, MT 59715  
                              (406) 586-4364

ATTACHMENT 1 (PAGE 1 OF 3)  
Tab 1  
(p. 7 of 34)

1 APPEARANCES:

2 Robert Lane, Attorney  
3 Department of Fish, Wildlife and Parks  
4 1420 E. Sixth  
5 Helena, MT 59620  
6 (By Telephone)

7 Milton Hunt  
8 Vice President, Gold Vista  
9 c/o Gold Vista  
10 156 E. 2nd South  
11 Salt Lake City, UT 84111

12 Elton Stout  
13 c/o Gold Vista  
14 156 E. 2nd South  
15 Salt Lake City, UT 84111

16 Harold Goddard  
17 Secretary-Treasurer, Gold Vista  
18 731 East 21st S.  
19 Salt Lake City, UT 84106

20 Gordon Austin  
21 President, Gold Vista  
22 2 Lone Hollow  
23 Sandy, UT 84092

24

25

ATTACHMENT 1 (Page 2 of 3)

1 THE COURT: Okay, what I will do then is I'll issue an  
2 order stating that the supplemental answers will be filed by  
3 July 25th and in case that's a weekend then we'll go to the  
4 next Monday and then if you file those answers, then I will  
5 call Mr. Lane and see if he has a different approach on this.  
6 Now, if it looks like we can settle this, or if we need to go  
7 farther with it and if we do, then you will all receive notice  
8 and I will probably also give you a telephone call just to  
9 see how things go, because hopefully he just needs this  
10 additional information and that should resolve it.

11 GORDON AUSTIN: Would there be any need of us getting an  
12 attorney involved at this point?

13 THE COURT: I'm not allowed to give you that sort of  
14 advice, but the program is set up so that an attorney is not  
15 required, that you can represent yourself and you will not  
16 be prejudiced in any way.

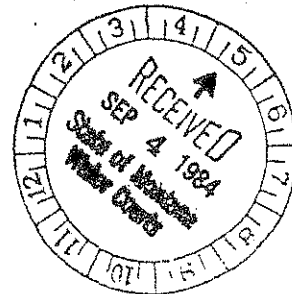
17 ELTON STOUT: I think that we can represent ourselves at  
18 least to this point, unless this thing gets into some kind  
19 of a deep legal hassle that we don't understand all the  
20 formality thereof.

21 MILTON HUNT: We appreciate, deeply, your efforts and the  
22 Water Board's efforts to see that we don't lose over a  
23 million dollars put in there in hard labor and faith that  
24 it was going to produce great wealth and it is going to and  
25 it has done in the past.



IN THE WATER COURTS OF THE STATE OF MONTANA  
CLARK FORK DIVISION - FLINT CREEK BASIN  
\*\*\*\*\*

IN THE MATTER OF THE ADJUDICATION )  
OF THE EXISTING RIGHTS TO THE USE )  
OF ALL THE WATER, BOTH SURFACE AND )  
UNDERGROUND, WITHIN THE FLINT CREEK )  
DRAINAGE AREA, INCLUDING ALL )  
TRIBUTARIES OF FLINT CREEK IN )  
GRANITE AND DEER LODGE COUNTIES, )  
MONTANA. )



NOTICE OF OBJECTION  
Basin 76GJ

76GJ-W-006433-00

1. Claim # \_\_\_\_\_; Page # of Temporary Preliminary Decree 33

2. Source UNAMED tributary FLINT Creek; County GRANITE

3. Type of Claim: X Irr. \_\_\_ Dom \_\_\_ Stock \_\_\_ Other Use

4. Name of Party to whom the water right was issued:  
ENMAN + NAKKEN INC

5. Objector's name, address and phone number:

ENMAN + NAKKEN INC  
Last Name First Name Middle Initial  
STAR Route 35  
Street Address or Post Office Box  
Drummond MT 59832  
City State Zip Code  
406-288-3345  
Area Code Phone Number

6. Name of objecting party's attorney and address, if any:

MASAR JAMES  
Last Name First Name Middle Initial  
500 MAIN STREET  
Street Address or Post Office Box  
Deer Lodge MT 59722  
City State Zip Code  
406-846-2121  
Area Code Phone Number

7. Basis of Objection:

\_\_\_ Ownership \_\_\_ Place of Use \_\_\_ Point of Diversion  
\_\_\_ Priority Date \_\_\_ Acres Irrigated \_\_\_ Means of Diversion  
\_\_\_ Purpose of Right \_\_\_ Source X Volume or Flow Rate  
Supplemental Limitations

8. Signature of Objector: Enman + Nakken Inc  
Rozema Enman Sec. Treas.

ATTACHMENT 2(a) (Page 1 of 2)

Tab 1  
Pg. 10 of 24

Claim No. 76GJ-W-006433-00

This is a supplemental source of water used mainly in periods of time when water from Claims W006436-00, W006437-00, W006438-00 and W-006441-00 are not available. Therefore, it should not be subject to supplemental limitations, for this could eliminate this right.

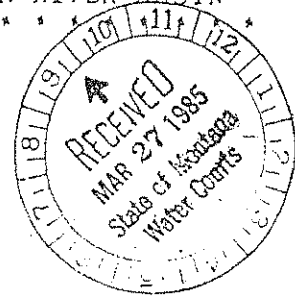
We request a hearing on this matter.

Enman + Hobben - Inc.  
By Elliott Enman

ATTACHMENT 2(a) (Page 2 of 2)

UPPER MISSOURI DIVISION - MADISON RIVER BASIN

IN THE MATTER OF THE ADJUDICATION )  
 OF THE EXISTING RIGHTS TO THE USE )  
 OF ALL THE WATER, BOTH SURFACE AND )  
 UNDERGROUND, WITHIN THE MADISON )  
 RIVER DRAINAGE AREA, INCLUDING ALL )  
 TRIBUTARIES OF THE MADISON RIVER IN )  
 BEAVERHEAD, GALLATIN AND MADISON )  
 COUNTIES, MONTANA. )



NOTICE OF INTENT TO APPEAR  
 BASIN 41F

1. Claim # 125582
2. Source Un-named Spring, Tributary of Madison River
3. County Madison
4. Name, address and phone number of party appearing:
 

<u>Asher</u>	<u>William</u>	<u>E.</u>
Last Name	First Name	Middle Initial
<u>P.O. Box 3285</u>		
<u>Street Address or Post Office Box</u>		
<u>Bozeman</u>	<u>Montana</u>	<u>59715 995-4402</u>
City	State	Zip Code Phone
5. Name, address and phone number of party's attorney, if any
 

<u>Sabol</u>	<u>Joseph</u>	<u>W.</u>
Last Name	First Name	Middle Initial
<u>8860 Bridger Canyon Road</u>		
<u>Street Address or Post Office Box</u>		
<u>Bozeman</u>	<u>Montana</u>	<u>59715 587-9338</u>
City	State	Zip Code Phone
6. Signature of appearing party: William E. Asher
7. State appearing party's legal rights that may be affected by this preliminary hearing and the purposes for which further participation in this hearing is requested. If additional space is needed for elaboration, please attach on 8 X 11 1/2 paper.
8. Please send completed form to: Montana State Water Courts  
 P.O. Box 879  
 Bozeman, MT 59715

ATTACHMENT 2(b) (Page 1 of 2)


Tab 1  
 (p. 12 of 34)

RE: Item # 7 on the attached NOTICE OF INTENT TO APPEAR  
Claim # 125582

I, William E. Asher, Sr., as the appearing party on behalf of Shelton Ranches, state that the legal rights of my client that may be affected by this preliminary hearing are relative to a clerical correction of the above water right claim.

My "standing" - for the purpose of the proposed hearing- is based on the fact that I serve in the capacity of Consultant to Shelton Ranches, where their water rights claims are concerned. During the filing period, my responsibilities included doing all research, documentation, map work, etc., necessary to the preparation of existing water rights claims under Senate Bill 76 of the 1979 Session of the Legislature.

The purpose for which further participation in this hearing is requested is to allow the Shelton Ranches Attorney, Mr. Joseph W. Sabol, and myself, to continue to provide representation in our clients' interest, as their water rights are adjudicated.

  
March 25, 1985

ATTACHMENT 2(6) (Page 2 of 2)

\*\*\*\*\*  
IN THE MATTER OF THE ADJUDICATION  
OF THE EXISTING RIGHTS TO THE USE  
OF ALL THE WATER, BOTH SURFACE AND  
UNDERGROUND, WITHIN THE MADISON  
RIVER DRAINAGE AREA, INCLUDING ALL  
TRIBUTARIES OF THE MADISON RIVER IN  
BEAVERHEAD, GALLATIN AND MADISON  
COUNTIES, MONTANA.

CLAIM NO. 41F-W-125582-00

AFFIDAVIT

Lester B. Griffith, after being first duly sworn, deposes and says:

That my mailing address is Box 172, Gallatin Gateway, Montana, 59730; that I am now and have been a resident of Gallatin County, Montana; that I have been Manager of Shelton Ranches, Montana Division, since the month of May, 1981; that I have been familiar with water use on the lands described in claim number 41F-W-125582-00.

I respectfully request that the Water Court change the land description for POINT OF DIVERSION and PLACE OF USE, as shown in the MADISON RIVER TEMPORARY PRELIMINARY DECREE, claim number 41F-W-125582-00. The Decree shows the land description as SE $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 24, T2S R1E. The correct land description for POINT OF DIVERSION and PLACE OF USE should be NE $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 24, T2S R1E.

This change is relative to our objection filed on Nov. 29, 1984.

Affiant makes this Affidavit for the purpose of amending the Temporary Decree so that the Final Decree (41-F) will accurately reflect the above changes.

Lester B. Griffith  
Lester B. Griffith

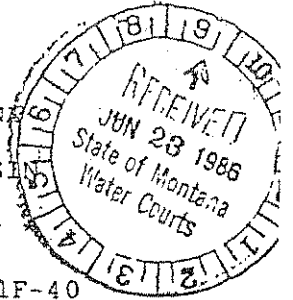
SUBSCRIBED and SWORN to before me this 28 day of June, 1985.

ATTACHMENT 3(a)  
(Page 1 of 1)

D. Burkhart  
Notary Public for the State of Montana,  
Residing at \_\_\_\_\_, Montana

Tab 1  
(p. 14 of 34)

IN THE WATER COURTS OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION - MADISON RIVER BASIN



\*\*\*\*\*

IN THE MATTER OF THE ADJUDICATION	)	Case No. 41F-40
OF THE EXISTING RIGHTS TO THE USE	)	
OF ALL THE WATER, BOTH SURFACE AND	)	STIPULATION
UNDERGROUND, WITHIN THE MADISON	)	
RIVER DRAINAGE AREA, INCLUDING	)	Water Right Claim
ALL TRIBUTARIES OF THE MADISON RIVER	)	No. 41F-W-102801
IN BEAVERHEAD, GALLATIN AND	)	
MADISON COUNTIES, MONTANA.	)	

\*\*\*\*\*

COMES NOW the Department of Fish, Wildlife and Parks (DFWP),  
by and through one of its attorneys, and Marguerite B. Cenis,  
to stipulate as follows in regard to Water Right Claim No.  
41F-W-102801:

That the Temporary Preliminary Decree for the Madison River  
Basin should be changed at page 1336 to read as follows:

FLOW RATE:	100 gpm
VOLUME:	80 acre feet per year

(2) That upon the signing of this stipulation by both  
parties, the DFWP will file a "Withdrawal of Objection" with  
the Montana Water Courts, thereby concluding this litigation.

DATED this 19th day of June, 1986.

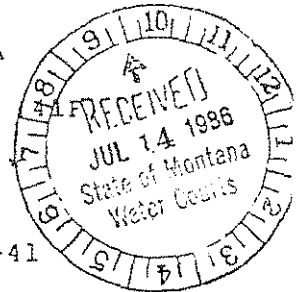
Robert N. Lane  
Robert N. Lane  
Staff Attorney  
1420 East Sixth Avenue  
Helena, Montana 59620  
Ph: 406/444-4594

Marguerite B. Cenis  
*Marguerite B. Cenis*  
Power of attorney for  
Marguerite B. Cenis

ATTACHMENT 3(6)  
(PAGE 1 of 1)

Tab 1  
(p. 15 of 34)

IN THE WATER COURTS OF THE STATE OF MONTANA  
UPPER MISSOURI RIVER BASIN - MADISON RIVER BASIN



\*\*\*\*\*  
IN THE MATTER OF THE ADJUDICATION )  
OF THE EXISTING RIGHTS TO THE USE ) CASE NO. 41F-41  
OF ALL THE WATER, BOTH SURFACE AND )  
UNDERGROUND, WITHIN THE MADISON ) Water Right Claim No.  
RIVER DRAINAGE AREA, INCLUDING ALL ) 41F-W-103542  
TRIBUTARIES OF THE MADISON RIVER ) (Gold Vista, Inc.)  
IN BEAVERHEAD, GALLATIN AND MADISON )  
COUNTIES, MONTANA. )

\*\*\*\*\*

STIPULATION

\*\*\*\*\*

COMES NOW the Department of Fish, Wildlife and Parks (DFWP), by and through one of its attorneys, and Gold Vista, Inc., by and through its President, Gordon P. Austin, to stipulate as follows in regard to Water Right Claim No. 41F-W-103542.

1) That the Temporary Preliminary Decree for the Madison River Basin should be changed at page 1348 to read as follows:

PURPOSE (USE): MINING AND POWER GENERATION

REMARKS: SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER DELINEATION OF THIS RIGHT.

THE USE OF THIS RIGHT IS FOR HYDROPOWER AND MINING PURPOSES WITH THE ALLOCATION OF THE RIGHT BETWEEN THE TWO USES ACCORDING TO HISTORIC USAGE. THE WATER, AFTER ANY USE FOR HYDROPOWER AND MINING PURPOSES, SHALL BE RETURNED TO THE MAIN CHANNEL OF SOUTH MEADOW CREEK BY PROPER CONVEYANCE.

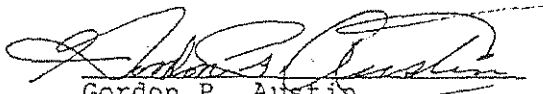
2) That upon the signing of this stipulation by both parties, the DFWP will file a "Withdrawal of Objection" with the Montana Water Courts, thereby concluding this litigation.


Attachment 3(c) (page 1 of 2)

Tab 1  
(p. 16 of 34)

12

DATED this 6<sup>th</sup> day of July, 1986.

  
Gordon P. Austin  
President, Gold Vista, Inc.

  
Robert N. Lane  
Staff Attorney  
1420 East Sixth Avenue  
Helena, Montana 59620  
Ph: 406/444-4594

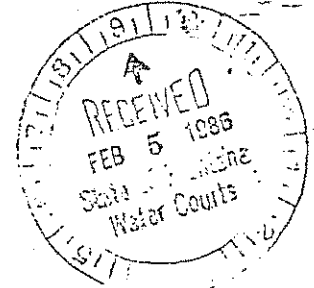
ATTACHMENT 3(c) (Page 2 of 2)



CLARK FORK DRAINAGE - CLARK FORK RIVER BETWEEN THE  
BLACKFOOT RIVER AND FLATHEAD RIVER BASIN

\*\*\*\*\*

IN THE MATTER OF THE ADJUDICATION  
OF THE EXISTING RIGHTS TO THE USE  
OF ALL THE WATER, BOTH SURFACE AND  
UNDERGROUND, WITHIN THE CLARK FORK  
RIVER BETWEEN THE BLACKFOOT RIVER  
AND FLATHEAD RIVER DRAINAGE AREA,  
INCLUDING ALL TRIBUTARIES OF THE  
CLARK FORK RIVER BETWEEN THE  
BLACKFOOT RIVER AND FLATHEAD RIVER  
IN LAKE, MINERAL, MISSOULA AND  
SANDERS COUNTIES, MONTANA.



WITHDRAWAL OF CLAIM

I, Conoco, Inc., withdraw the  
Statement of Claim for Existing Water Rights numbered 003282  
for the following reason (s):  
does not fall within the jurisdiction of the State of  
Montana Water Court due to date of water well  
completion (Sept. 1974).

I understand that this claim will therefore be terminated.

DATED this 3 day of February, 1986.

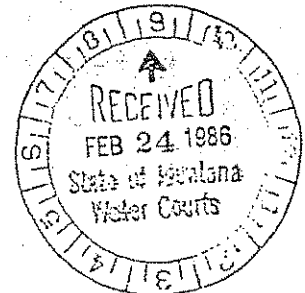
Conoco, Inc.  
Ronald A. Puckett  
District Superintendent

ATTACHMENT 4(a)

70m-3  
Y

CLARK FORK DIVISION.- CLARK FORK RIVER BETWEEN THE  
BLACKFOOT RIVER AND FLATHEAD RIVER BASIN  
\*\*\*\*\*

IN THE MATTER OF THE ADJUDICATION )  
OF THE EXISTING RIGHTS TO THE USE )  
OF ALL THE WATER, BOTH SURFACE AND )  
UNDERGROUND, WITHIN THE CLARK FORK )  
RIVER BETWEEN THE BLACKFOOT RIVER )  
AND FLATHEAD RIVER DRAINAGE AREA, )  
INCLUDING ALL TRIBUTARIES OF THE )  
CLARK FORK RIVER BETWEEN THE )  
BLACKFOOT RIVER AND FLATHEAD RIVER )  
IN LAKE, MINERAL, MISSOULA AND )  
SANDERS COUNTIES, MONTANA. )



WITHDRAWAL OF CLAIM

ASARCO Incorporated, withdraws the  
Statement of Claim for Existing Water Rights numbered 76M-W-116581-00

for the following reason (s):

Asarco filed claims on all appropriated water rights in the Flat Creek drainage

included in the deed transferring the Iron Mountain Mining property to Asarco.

This claim is for domestic water in the town of Superior and would not be required  
if Asarco reopens the mine.

I understand that this claim will therefore be terminated.

DATED this 20<sup>th</sup> day of FEBRUARY, 1986.

F. D. Owsley  
General Manager  
Northwestern Mining Department

ATTACHMENT 4(6)

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

MISSOULA WATER RIGHTS FIELD OFFICE



TED SCHWINDEN, GOVERNOR

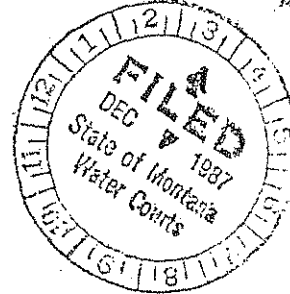
HOLIDAY VILLAGE PROFESSIONAL PLAZA, SUITE 105  
P.O. BOX 5004

STATE OF MONTANA

(406) 721-4284

MISSOULA, MONTANA 59806

Kathryn Lambert  
Montana Water Courts  
P.O. Box 879  
601 Haggarty Lane  
Bozeman, Montana 59715



December 3, 1987

Dear Kathryn,

Enclosed is a copy of a request to terminate a group of claims in the Middle Clark Fork River Basin(76M). The property to which these claims are appurtenant has recently been acquired from the original claimant, Ernest Bargmeyer, by "Ophthalmology and Otolaryngology Associates". A copy of the Certificate of Transfer for the Water Rights is also enclosed. "Associates" has concluded that the claims filed by Mr. Bargmeyer were not based on valid water rights. With your authorization, we will change DNRC records to reflect their request that the claims be terminated.

Please contact either myself or Jim Kindle about this matter. Thank you.

Sincerely,

A handwritten signature in cursive script, reading "John Westenberg".

John Westenberg  
Water Rights Specialist

JW:dbe

Enclosures

ATTACHMENT 4(c)  
(page 1 of 2)

"AN EQUAL OPPORTUNITY EMPLOYER"

401 NORTH 31ST

Tab 1  
(p. 20 of 34)

REQUEST TO WITHDRAW STATEMENT OF CLAIM

STATE OF MONTANA

County of MISSOULA

I, FIRST INTERSTATE BANK BILLINGS, N.A. Trustee for OPHTHALMOLOGY & OTOLARYNGOLOGY ASSOCIATES P.C. PENSION + PROFIT ACCT# 61-008160-6  
hereby request the withdrawal of my Statement of Claim, number 76M-W-148993-00

The reason for this request is:

☐ I have an existing right which is exempt from filing.

☐ This claim was for a use of water after July 1, 1973.

☐ I have no existing water right to claim.

☒ Other: New Owner feels these claims

do not represent valid existing water  
rights.

Gregory L. Shurt 12-1-87  
Signature Trust Officer date

Signature

date

Subscribed and sworn before me this 1 day of Dec, 19 87.

(notary seal)

Linda Sue Ballard  
Residing at Yellowstone County  
My commission expires 8/10/90

ATTACHMENT 4(C)  
(PAGE 2 OF 2)

THE SUPREME COURT OF MONTANA



JUSTICE BUILDING  
215 NORTH SANDERS  
HELENA, MONTANA 59620-3001  
TELEPHONE (406) 444-2621

RECEIVED

July 28, 1992

JUL 31 1992

Hon. C. Bruce Loble  
Chief Water Judge  
P.O. Box 879  
Bozeman, MT 59771-0879

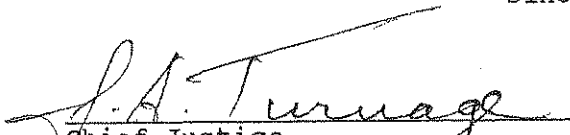
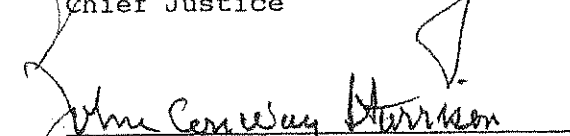
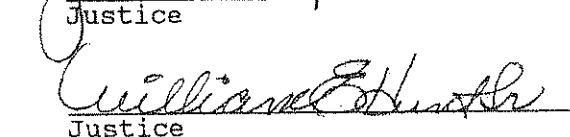
Montana Water Court

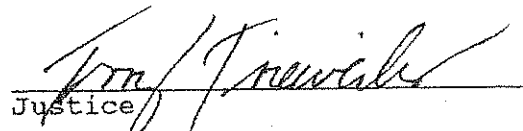
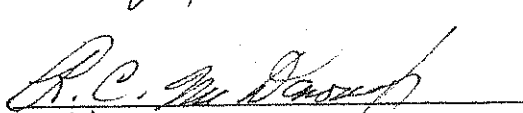
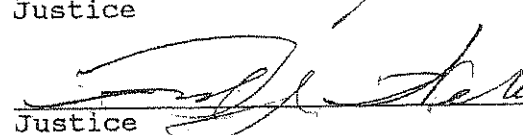
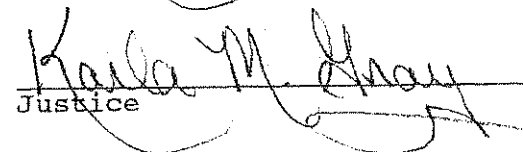
Re: Lay representation before the Water Court

Dear Judge Loble:

The Court thanks you for your letter of June 10, 1992. We agree with you that direction is needed relative to lay representation. We would appreciate it if you would, after consulting with the other water judges, submit to us a proposed rule to govern representation before the Water Court.

Sincerely,

  
Chief Justice  
  
Justice  
  
Justice

  
Justice  
  
Justice  
  
Justice  
  
Justice

RCM:pwh

Tab 1  
(p. 22 of 34)



## MONTANA WATER COURT

STATE OF MONTANA

(406) 586-4364  
1-800-624-3270 (In-State only)

P.O. Box 879  
Bozeman, MT 59771-0879

March 5, 1993

Honorable J. A. Turnage, Chief Justice  
The Supreme Court of Montana  
Justice Building  
215 North Sanders  
Helena, Montana 59620-3001

Re: Lay Representation Before the Water Court

Dear Chief Justice Turnage:

In accordance with the July 28, 1992 letter from the Court, enclosed is a proposed rule regarding lay representation before the Water Court. Also enclosed is a proposed Water Court Order that we propose to issue once a water right claimant or objector elects to utilize lay representation. Similar letters and enclosures are enclosed for the other justices. Finally, I have enclosed a Word Perfect 5.1 disk to assist the Court in making any changes to the proposed rule or order.

The enclosed materials have been reviewed by Water Judges Rodeghiero, Hegel and Mizner and they have no objections to them.

The enclosed proposal authorizes lay representation of corporations and other entities. The Court has expressed its concerns most recently in Audit Services v. Frontier-West 252 Mont 142, 148, 827 P.2d 1242 (1992) about corporate lay representation before the district courts. The circumstances surrounding lay representation of corporations before the Water Court is significantly different from the district court and justifies a different rule. In typical district court actions, the application of the law to the facts will be argued at great length. In the typical Water Court action, the law is rarely discussed.

The most important Water Court issues usually involve an objection to some aspect of the historical pre July 1973 water usage of the claim in question such as the flow rate, the amount of acres irrigated and other elements. The resolution of the water usage issues usually requires an adjustment to the decree previously issued by the Water Court.

"... to expedite and facilitate the adjudication of existing water rights."  
CH. 697 L. 1979

"AN EQUAL OPPORTUNITY EMPLOYER"

Tab 1  
(p. 23 of 34)

These adjustments are usually made through the filing of affidavits and stipulations which identify the correct legal descriptions for points of diversion, places of use, acres irrigated and reservoir locations; the correct priority dates, flow rates, volumes, means of diversion, periods of use and source names; and other information necessary to describe the historical usage of the claim. The Water Court and DNRC provide blank form affidavits for water users to use.

A great many of the adjustments made by affidavit or by stipulation are simple refinements of the information presented in the originally filed statements of claim. Since the originally filed statements of claim were often prepared and filed by lay representatives of family, corporations, associations, partnerships, and others it should be permissible to allow the same type of people to refine that information.

Lay representatives usually, but not always, are related in some way to the water user (through family, ownership interests or as an employee) and often have personal knowledge about the water right claim in question. Historically, these lay representatives have negotiated, prepared, reviewed, signed or transmitted factual affidavits or stipulations to the Water Court to resolve objections to a water right claim.

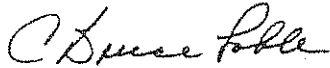
Government agencies, most notably the Montana Department of State Lands, and some larger business entities also utilize lay representatives. These government or business lay representatives are less likely to have personal knowledge of the pre July 1973 water usage.

The state wide adjudication of water rights is viewed with suspicion and hostility by some water users. The success of the adjudication depends on the participation of the public in reviewing the decrees and engaging in the Water Court process. The more hurdles placed in front of water users, the more likely they are to avoid that process.

Requiring closely held corporations, partnerships, associations, or families to hire a lawyer to fill in the blanks of a Water Court form affidavit or to draft a simple factual affidavit or stipulation will probably be viewed as such a hurdle. Most lawyers hired by such entities will not be able to act as a secretary taking dictation. To avoid a potential malpractice claim, many lawyers may feel obligated to research the issue further in order to feel comfortable in representing their client. Several hours of legal or factual research will increase costs to the water users. Although some entities might benefit from such legal representation not all will.

For the reasons stated above and in my letter to the Court of June 10, 1992, the proposed rule is enclosed for the Court's consideration. If the Court believes it beneficial, I would be pleased to discuss this matter personally with any or all of the members of the Court.

Sincerely,



C. Bruce Loble  
Chief Water Judge

CBL:lmb  
Enclosures

cc: Water Judge Roy C. Rodeghiero  
Water Judge Ted L. Mizner  
Water Judge Joe L. Hegel



IN THE SUPREME COURT OF THE STATE OF MONTANA  
\* \* \* \* \*

IN THE MATTER OF THE ESTABLISHMENT OF )  
A RULE FOR AUTHORIZED REPRESENTATION )  
BEFORE THE MONTANA WATER COURT )  
\_\_\_\_\_)

The Montana Water Court has the statutory obligation and exclusive authority to adjudicate claims of existing water rights. The mechanics of the adjudication are set forth in the relevant statutes and in the Water Right Claims Examination Rules previously adopted by this Court.

Over 200,000 Statements of Claim for Existing Water Rights ("claims") were filed by April 30, 1982. As all of these claims cannot be adjudicated at one time, the claims are being systematically decreed and adjudicated by drainage basin. Many of these existing water rights have priority dates that predate the establishment of the State of Montana. The task of completing this project in a timely fashion is formidable.

During the adjudication process, many adjustments are made to the claims. We are advised by the Water Court that a great many of these adjustments are simple refinements of the originally filed claims and that these adjustments are requested by the claimant or jointly agreed upon by the claimant and any objector to the claim.

We are advised that in the process of making these adjustments, the practice of the Water Court has been to permit lay representation of parties involved in its proceedings. From the beginning, the Water Court has encouraged and assisted water users

Tab 1  
(p. 26 of 34)

in representing themselves. For example, the Water Court has developed and provided simple "check off" forms and affidavits for the public to use.

Lay representatives have usually been closely related to the water user they represent and usually have had personal knowledge about the water right claim in question. Family members, corporate, association or district officers, partners, and others have "represented" family, closely held corporations, associations, irrigation districts and partnerships during the adjudication process. Lay representatives typically "represent" the water user before the Water Court during status or pre-trial conferences, they respond to correspondence from the Water Court, and they meet with Department of Natural Resources and Conservation technicians and others involved with the claim. Lay representatives have prepared or reviewed and signed factual affidavits or stipulations to resolve objections to the claims.

This practice eases the presentation of factual information needed to support the historical use of these existing water rights, and advances the Legislature's command to expedite and facilitate the adjudication of existing water rights (Chap. 697, L. 1979). This lay representation has occurred without serious objection from any entity.

When the legislation was enacted in 1979 establishing the Water Court and initiating the general adjudication of existing water rights, the Montana Legislature contemplated that the process might require special rules of practice and procedure. See section

3-7-103 Mont. Code Ann. Given the special circumstances surrounding the Water Court and the general adjudication of existing water rights, this Court concludes that the Water Court was justified in allowing lay representation before it and hereby approves and ratifies this past practice. However, this Court also concludes that the parameters of such authorized lay representation should be established for the Water Court's future guidance.

Therefore,

IT IS ORDERED:

1. The Montana Supreme Court does hereby adopt and promulgate under Article VII, Section 2 of the Constitution of Montana and the statutory encouragement and authority found in sections 3-7-103 and 3-7-204 Mont. Code Ann., an amendment to Water Rights Claim Examination Rule 1.II, Water Court Procedures, concerning authorized lay representation in Water Court proceedings.

2. The following amendment shall be made to Rule 1.II and shall be designated as section (11) of this Rule:

(11) An "authorized lay representative" means a member of a participating partnership; an officer or regular employee of a participating corporation, association, irrigation district, or other organized group; an employee of a participating governmental agency; an agricultural engineer, hydrologist or other similarly experienced and knowledgeable professional; a family member or any person authorized to act on behalf of another person as evidenced by a duly executed power of attorney.

A person participating in Water Court proceedings may be represented by an authorized lay representative during the following activities:

a. The filing of an objection to any interlocutory, temporary preliminary, or preliminary decree as described in Rule 1.II(7) of the Water Right Claim Examination Rules;

- b. The filing of a Notice of Intent to Appear described in Rule 1.II(8) of the Water Right Claim Examination Rules;
- c. Status or pre-trial conferences conducted by a water master or water judge;
- d. Site or field inspections; and
- e. The preparation and signing of affidavits and stipulations, and the filing of the same with the Water Court for the purpose of resolving objections. Affidavits and stipulations prepared or signed by an authorized lay representative shall be limited to factual representations concerning the historical pre July 1973 elements of a water right claim such as identifying the correct legal descriptions for points of diversion, places of use, acres irrigated and reservoir locations; the correct priority dates, flow rates, volumes, means of diversion, periods of use and source names; and other information necessary to describe the historical usage of the claim in question.

An authorized lay representative may not engage in any activity after the initial status conference without a written authorization being filed with the Water Court containing the signed consent of the person being represented. The written authorization must also ratify the previous Water Court activities undertaken by the authorized representative. The written authorization must be in substantial conformity with the Authorization and Ratification of Representative form attached as Exhibit F.

Authorized lay representatives shall not give legal advice, engage in the unauthorized practice of law, or engage in significant legal arguments before the Court.

Except as authorized in the following paragraph, once the Water Court proceedings have advanced to the pre-trial conference contemplated in Rule 5 of the Uniform District Court Rules, activities by authorized lay representatives shall no longer be permitted.

A water judge or master, in the judge's or master's discretion, may allow an authorized lay representative to represent a person at the pre-trial conference and any hearing. The exercise of such discretion is discouraged and is to be strictly limited to those circumstances where the presentation of evidence, examination and cross-examination of witnesses, or presentation of argument by the authorized lay representative is factual in nature and does not require the presentation of significant legal argument; and provided further that the authorized lay representative shall receive no compensation.

The Water Court may restrict, limit or deny any authorized lay

representative from representing a person in Water Court proceedings if the water master or water judge conducting the proceedings concludes, in his or her discretion, that the authorized lay representative will hinder or is hindering the orderly and timely progress of the proceeding or development of the record. In the event the Water Court exercises this discretion, the Water Court shall continue further proceedings for a reasonable time to afford the affected person an opportunity to engage the services of an attorney licensed to practice in Montana.

DATED this            day of            , 1993.

\_\_\_\_\_  
Chief Justice

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Justices

EXHIBIT F

(TITLE OF COURT & CAUSE)

AUTHORIZATION AND RATIFICATION OF REPRESENTATIVE

Please take notice that \_\_\_\_\_ is authorized to act on behalf of the undersigned in the Montana Water Court for all proceedings permitted by Rule 1.II (11) of the Water Rights Claims Examination Rules. The undersigned ratifies the filing of any Notice of Objection and Request for Hearing or Notice of Intent to Appear that may have been filed previously by the authorized representative on my behalf. The name, mailing address and telephone number of my authorized representative is listed below. I understand that all filings that will be made by my authorized representative will be accepted and treated by the Montana Water Court as if they were made by me and will be binding upon me.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
Name of Authorized Representative	Claimant or Objector
Mailing Address and Telephone Number	Signature, Printed Name, Title (if any), Mailing Address and Telephone No.

CLAIMANT'S OR OBJECTOR'S SIGNATURE MUST HAVE  
PERSONAL OR CORPORATE ACKNOWLEDGMENT

Please send this completed form to: Montana Water Court  
P. O. Box 879  
Bozeman, MT 59771-0879

Tab. 1  
(p. 31 of 34)

TITLE OF COURT AND CAUSE

ORDER

On \_\_\_\_\_, the Claimant/Objector filed his/her/its Authorization and Ratification of Representative and gave notice that \_\_\_\_\_ is authorized to act on behalf of the claimant/objector. In accordance with Rule 1.II (11) of the Water Rights Claims Examination Rules, it is

ORDERED that all filings made by the authorized representative shall be accepted and treated by the Court as if they were made by the claimant/objector and will be binding upon the claimant/objector until and unless the claimant/objector files a written revocation of that authorization with the Court.

FURTHER ORDERED that service of all further documents filed in this matter by all parties shall be made on both the claimant/objector and the authorized representative at the mailing addresses specified on the appended certificate of service.

FURTHER ORDERED that the scope of authority of the authorized representative is limited to that provided by Rule 1.II(11).

FURTHER ORDERED that once the Water Court proceedings have advanced to the pre-trial conference contemplated in Rule 5 of the Uniform District Court Rules, that the authorized lay representative shall no longer be permitted to act on behalf of the claimant/objector without a further order of this Court.

DATED this      day of              , 1993.

\_\_\_\_\_  
Water Judge/Water Master

Tab 1  
(p. 32 of 34)

THE SUPREME COURT OF MONTANA

J.A. TURNAGE  
CHIEF JUSTICE



JUSTICE BUILDING  
215 NORTH SANDERS  
PO BOX 203001  
HELENA, MONTANA 59620-3001  
TELEPHONE (406) 444-5490

November 2, 1993

**RECEIVED**

NOV - 4 1993

Honorable C. Bruce Loble  
Chief Water Judge  
P. O. Box 879  
Bozeman, MT 59771-0879

Montana Water Court

Dear Chief Water Judge Loble:

In an effort to avoid any further delay in your request to the Court concerning lay representation before the Water Court, we have had this on our conference agenda since your letter was received on March 8, 1993.

It is my understanding that the Conference, at least at this time, believes that you, as Chief Water Judge, and with the consent you apparently have already obtained from the other Water Judges, are in a position to allow lay representation as a discretionary matter.

Unless you believe it is necessary that some formal rule be adopted, the Court would prefer that you proceed to handle the matter as apparently is now being done.

If you want to visit about this matter with the Court, please let me know and we will arrange for you to come to one of our conferences.

With best regards, I remain

Sincerely,

A handwritten signature in dark ink, appearing to read "J. A. Turnage".  
J. A. Turnage  
Chief Justice

JAT:rap

c: All Justices

Tab 1  
(p. 33 of 34)





## MONTANA WATER COURT

STATE OF MONTANA

(406) 586-4364  
1-800-624-3270 (In-State only)

P.O. Box 879  
Bozeman, MT 59771-0879

November 22, 1993

Honorable J. A. Turnage, Chief Justice  
Montana Supreme Court  
PO Box 203001  
Helena MT 59620-3001

Re: Lay Representation Before the Water Court

Dear Chief Justice Turnage:

Thank you for your letter to me of November 2, 1993. Copies of it were sent to Water Judges Rodeghiero, Hegel and Mizner. We are all in agreement that this matter be handled in the manner outlined in your letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. Bruce Loble".

C. Bruce Loble  
Chief Water Judge

CBL:lmb

cc: Water Judges

"... to expedite and facilitate the adjudication of existing water rights."  
CH. 697 L. 1979

"AN EQUAL OPPORTUNITY EMPLOYER"

Tab 1  
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